IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE V.K.MOHANAN

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

RFA.No. 36 OF 2007(D)

OS.301/2000 OF THE PRL.SUB COURT, TRIVANDRUM

APPELLANTS/DEFENDANTS

1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY ITS SECRETARY,
VAIDYUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

2. THE DEPUTY CHIEF ENGINEER,
KERALA STATE ELECTRICITY BOARD,
GENERATION CIRCLE, MOOLAMATTOM, IDUKKI CIRCLE.

3. THE EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
GENERATION CIRCLE, MOOLAMATTOM,
IDUKKI CIRCLE.

4. THE ASSISTANT EXECUTIVE ENGINEER,
KERALA STATE ELECTRICITY BOARD,
GENERATION CIRCLE, MOOLAMATTOM,
IDUKKI DISTRICT.

5. THE ASSISTANT ENGINEER,
KERALA STATE ELECTRICITY BOARD,
CIVIL MAINTENANCE SECTION-II,
MOOLAMATTOM, IDUKKI DISTRICT.

BY ADV. SRI.N.N.SUGUNAPALAN(SR.)SC,KSEB
SRI.S.SUJIN

RESPONDENTS: PLAINTIFF

MATHAI THOMAS, S/O.THOMAS MATHAI,
CONTRACTOR, RESIDING AT KULANGIPARAKKAL HOUSE,
KULAKKAD, THIRUVALLA, PATHANAMTHITTA DISTRICT.

BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW

THIS REGULAR FIRST APPEAL HAVING COME UP FOR CONSIDERATION ON 27/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R. RAMAN & V. K. MOHANAN, JJ.

C.M. APPLN. 97/2007 & R.F.A. NO. 36 OF 2007

DATED THIS, THE 27TH DAY OF SEPTEMBER, 2007.

J U D G M E N T

Raman, J.

C.M Application 97/2007 is filed seeking condonation of the delay of 414 days caused in filing the appeal. As per the affidavit filed in support of the application, the certified copy of the judgment was ready on 25.5.2006; but the petitioner took the same only on 8.6.2006. Thereafter, it is only averred that it was decided by the concerned office of the Board to take up the matter in appeal. When was such a decision taken and who took the decision etc. are not mentioned. It is stated that the Board addressed a letter dated 30.11.2006 to its counsel directing to take steps for filing the appeal. The delay in between 8.6.2006, the date on which the copy of the judgment was obtained and 30.11.2006 - the date of the communication by the Board to its counsel is not at all explained. Even after taking a decision to file the appeal on 30.11.2006, the appeal was actually filed on 11.12.2006.

2. The application for condoning the delay is seriously opposed by the respondent by filing a counter affidavit. We are not satisfied that the delay is properly explained. Even though each and every day's delay may not be explained, at least there should be a satisfactory explanation to the delay after 8.6.2006 till 30.11.2006 in taking a decision for filing the appeal. In these circumstances, this application is dismissed.

In view of the dismissal of the delay condonation petition, the R.F.A. also is dismissed.

P.R. RAMAN,
(JUDGE)

V. K. MOHANAN,
(JUDGE)

knc/-